

Ryan A. Semerad, Esq.
Wyoming Bar No. 7-6270
THE FULLER & SEMERAD LAW FIRM
242 South Grant Street
Casper, Wyoming 82601
Telephone: 307-265-3455
Facsimile: 307-265-2859
Email: semerad@thefullerlawyers.com

Lee Mickus, Esq.
Wyoming Bar No. 7-5698
EVANS FEARS & SCHUTTERT LLP
3900 E. Mexico Avenue, Suite 1300
Denver, Colorado 80210
Telephone: 303-656-2199
Facsimile: 702-805-0291
Email: lmickus@efstrialaw.com

*Attorneys for Defendants Bradley H.
Cape, Zachary M. Smith, Phillip G.
Yeomans, and John W. Slowensky*

UNITED STATES DISTRICT COURT

DISTRICT OF WYOMING

IRON BAR HOLDINGS, LLC, a North Carolina limited liability company registered to do business in Wyoming,

Plaintiff,

vs.

BRADLY H. CAPE, an individual,
ZACHARY M. SMITH, an individual,
PHILLIP G. YEOMANS, an individual, and
JOHN W. SLOWENSKY, an individual,

Defendants.

CASE NO. 22-cv-00067-SWS

DEFENDANTS' LISTING OF WITNESSES

Defendants Bradly H. Cape, Zachary M. Smith, Phillip G. Yeomans, and John W. Slowensky (collectively, “Defendants”), by and through their undersigned attorneys, list the following witnesses that they may call at trial in the above-captioned matter pursuant to this Court’s Initial Pretrial Order (ECF No. 31) at 5. This listing will be served on Plaintiff Iron Bar Holdings, LLC’s (“Plaintiff”) counsel and filed with this Court pursuant to this same order.

DEFENDANTS’ LIST OF WITNESSES

1. Steve Grende, Property/Ranch Manager for Iron Bar Holdings, LLC
c/o Pence and MacMillan LLC
5908 Yellowstone Road
Cheyenne, WY 82009
Tel: (307) 638-0386

Mr. Grende will be called to testify about his personal knowledge, observations, and actions relating to Plaintiff’s installation of t-posts, signage, chains, and a lock blocking access to public lands and/or intimidating or threatening the public from attempting to access public lands situated at and beyond Section 24, Township 20 North, Range 82 West, 6th P.M., Carbon County, Wyoming. Mr. Grende will be called to testify about his supposed oral and/or unrecorded communications with representatives from the Wyoming Game and Fish Department in 2015 relating to their recommendation that Plaintiff install t-posts, signage, chains, and a lock at the corner shared by Section 13, 14, 23, and 24, Township 20 North, Range 82 West, 6th P.M., Carbon County, Wyoming, to control trespass on Plaintiff’s private property. Mr. Grende may also be called to testify about Plaintiff’s reasoning, rationale, and conclusion that the chains and lock “served no purpose” and decision to remove the chains and lock on February 11, 2022. Mr. Grende will also be called to testify about his communications with and statements to various local and state law enforcement agencies, including the Carbon County Sheriff’s Office, the Carbon County Attorney’s Office, and the Wyoming Game and Fish Department, concerning “corner crossing” or “corner hopping” by Defendants, including Mr. Grende’s representation that Plaintiff would shut down the public lands to everyone if “corner crossing” was deemed a legal form of access to public lands. Mr. Grende may be called to testify about any other matter relevant to Plaintiff’s claims in this case or Defendants’ defenses.

2. Becky Englert, Head Manager for Iron Bar Holdings, LLC
c/o Pence and MacMillan LLC
5908 Yellowstone Road
Cheyenne, WY 82009
Tel: (307) 638-0386

Ms. Englert will be called to testify about her personal knowledge, observations, and actions relating to Plaintiff's installation of t-posts, signage, chains, and a lock blocking access to public lands and/or intimidating or threatening the public from attempting to access public lands situated at and beyond Section 24, Township 20 North, Range 82 West, 6th P.M., Carbon County, Wyoming. Ms. Englert will be called to testify about Mr. Grende's supposed oral and/or unrecorded communications with representatives from the Wyoming Game and Fish Department in 2015 relating to their recommendation that Plaintiff install t-posts, signage, chains, and a lock at the corner shared by Section 13, 14, 23, and 24, Township 20 North, Range 82 West, 6th P.M., Carbon County, Wyoming, to control trespass on Plaintiff's private property. Ms. Englert may also be called to testify about Plaintiff's reasoning, rationale, and conclusion that the chains and lock "served no purpose" and decision to remove the chains and lock on February 11, 2022. Ms. Englert may be called to testify about any other matter relevant to Plaintiff's claims in this case or Defendants' defenses.

3. Dr. Frederic Eshelman, Sole Member of Iron Bar Holdings, LLC
c/o Pence and MacMillan LLC
5908 Yellowstone Road
Cheyenne, WY 82009
Tel: (307) 638-0386

Dr. Eshelman will be called to testify about his personal knowledge, observations, and actions relating to Plaintiff's installation of t-posts, signage, chains, and a lock blocking access to public lands and/or intimidating or threatening the public from attempting to access public lands situated at and beyond Section 24, Township 20 North, Range 82 West, 6th P.M., Carbon County, Wyoming. Dr. Eshelman will be called to testify about Mr. Grende's supposed oral and/or unrecorded communications with representatives from the Wyoming Game and Fish Department in 2015 relating to their recommendation that Plaintiff install t-posts, signage, chains, and a lock at the corner shared by Section 13, 14, 23, and 24, Township 20 North, Range 82 West, 6th P.M., Carbon County, Wyoming, to control trespass on Plaintiff's private property. Dr. Eshelman may also be called to testify about Plaintiff's reasoning, rationale, and conclusion that the chains and lock "served no purpose" and decision to remove the chains and lock on February 11, 2022. Dr. Eshelman may also be called to testify about Plaintiff's formal or informal policies regarding the discovery of any person on public lands adjacent to Plaintiff's private lands within Township 20 North, Range 82 West, 6th P.M., Carbon County, Wyoming, or Township 20 North, Range 81 West, 6th P.M., Carbon County, Wyoming. Dr. Eshelman may be called to testify about any other matter relevant to Plaintiff's claims in this case or Defendants' defenses.

4. F.R.C.P. 30(b)(6) Corporate Representative of Iron Bar Holdings, LLC
c/o Pence and MacMillan LLC
5908 Yellowstone Road
Cheyenne, WY 82009

Tel: (307) 638-0386

The testimony of the designated corporate representative of Iron Bar Holdings in response to Plaintiff's notice of deposition pursuant to F.R.C.P. 30(b)(6), LLC, will be presented regarding the topics set forth in the deposition notice, including Iron Bar Holdings, LLC's knowledge, reasonings, decisions, directives, and actions relating to its installation of t-posts, signage, chains, and a lock blocking access to public lands and/or intimidating or threatening the public from attempting to access public lands situated at and beyond Section 24, Township 20 North, Range 82 West, 6th P.M., Carbon County, Wyoming. The testimony of this corporate representative will also be presented regarding Iron Bar's communications with representatives from the Wyoming Game and Fish Department in 2015 relating to the Wyoming Game and Fish Department's recommendation that Iron Bar install t-posts, signage, chains, and a lock at the corner shared by Section 13, 14, 23, and 24, Township 20 North, Range 82 West, 6th P.M., Carbon County, Wyoming, to control trespass on Iron Bar's private property. The testimony of this corporate representative may also be presented to address Iron Bar's reasoning, rationale, and conclusion that the chains and lock "served no purpose" and decision to remove the chains and lock on February 11, 2022. The testimony of this corporate representative may also be presented regarding Iron Bar's formal or informal policies regarding the discovery of any person on public lands adjacent to Iron Bar's private lands within Township 20 North, Range 82 West, 6th P.M., Carbon County, Wyoming, or Township 20 North, Range 81 West, 6th P.M., Carbon County, Wyoming. The testimony of this corporate representative may also be presented about any other matter relevant to Iron Bar's claims in this case or Defendants' defenses.

5. Senior Game Warden Jake Miller
Wyoming Game and Fish Department
P.O. Box 179
203 Seiersen
Elk Mountain, WY 82324
Tel: (307) 348-7311

Warden Miller will be called to testify about his personal knowledge, observations, investigation, and report relating to Defendants' travels and hunt through the public lands within Township 20 North, Range 82 West, 6th P.M., Carbon County, Wyoming, and Township 20 North, Range 81 West, 6th P.M., Carbon County, Wyoming, in September and October 2021. Warden Miller will be called to testify about his conversations with Plaintiff's representatives, including Steve Grende, and their statements about the intent behind and purpose for the t-posts, signage, chains, and lock at the corner shared by Section 13, 14, 23, and 24, Township 20 North, Range 82 West, 6th P.M., Carbon County, Wyoming. Warden Miller may be called for any other matter relevant to Plaintiff's claims in this case or Defendants' defenses.

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6. Sergeant John Moore
Carbon County Sheriff's Office
415 W. Pine Street
Rawlins, WY 82301
Tel: (307) 324-2776

Sergeant Moore may be called to testify about his personal knowledge, observations, and investigation relating to Plaintiff's complaints that Defendants had trespassed on Plaintiff's private property in September and October 2021. Sergeant Moore will be called to testify about his conversations with Plaintiff's representatives, including Steve Grende, and their statements about the intent behind and purpose for the t-posts, signage, chains, and lock at the corner shared by Section 13, 14, 23, and 24, Township 20 North, Range 82 West, 6th P.M., Carbon County, Wyoming. Sergeant Moore may be called to testify about his conversations and communications with representatives from the Carbon County Attorney's Office regarding its order to Sergeant Moore to cite the Defendants for criminal trespass. Sergeant Moore may be called for any other matter relevant to Plaintiff's claims in this case or Defendants' defenses.

7. Deputy Patrick Patterson
Carbon County Sheriff's Office
415 W. Pine Street
Rawlins, WY 82301
Tel: (307) 324-2776

Deputy Patterson may be called to testify about his personal knowledge, observations, and investigation relating to Plaintiff's complaints that Defendants had trespassed on Plaintiff's private property in September and October 2021. Deputy Patterson may be called to testify about his conversations with Defendants when he served them with citations for criminal trespass relating to their travels and hunt on the public lands in Carbon County, Wyoming, in September and October 2021. Deputy Patterson may be called for any other matter relevant to Plaintiff's claims in this case or Defendants' defenses.

8. Deputy Alex Bakken
Carbon County Sheriff's Office
415 W. Pine Street
Rawlins, WY 82301
Tel: (307) 324-2776

Deputy Bakken may be called to testify about his personal knowledge, observations, and investigation relating to Plaintiff's complaints that Defendants had trespassed on Plaintiff's private property in September and October 2021. Deputy Bakken may be called to testify about his conversations with Defendants and Steve Grende relating to Defendants' travels and hunt on the public lands in Carbon County, Wyoming, in September and October 2021. Deputy Bakken may

be called for any other matter relevant to Plaintiff's claims in this case or Defendants' defenses.

9. Marshal Roger Hawks
 Marshal's Office at Town of Medicine Bow
 319 Pine Street
 Medicine Bow, WY 82329
 Tel: (307) 379-2202

Marshal Hawks, who worked for the Carbon County Sheriff's Office in the fall of 2020, may be called to testify about his personal knowledge, observations, investigation, and reports relating to Plaintiff's complaints that Defendants Bradley H. Cape, Zachary M. Smith, and Phillip G. Yeomans had trespassed on Plaintiff's private property in September and October 2020. Marshal Hawks may be called to testify about his conversations with Defendants, Steve Grende, and Dr. Frederic Eshelman relating to these three Defendants' travels and hunt on the public lands in Carbon County, Wyoming, in September and October 2020. Marshal Hawks may also be called to testify about these three Defendants' report that Plaintiff had blocked off the corner shared by Section 13, 14, 23, and 24, Township 20 North, Range 82 West, 6th P.M., Carbon County, Wyoming, with chains and a lock. Marshal Hawks may be called for any other matter relevant to Plaintiff's claims in this case or Defendants' defenses.

10. Game Warden Jake Brown
 Wyoming Game and Fish Department
 9 Wigwam Road
 Ten Sleep, WY 82442
 Tel: (307) 366-2213

Warden Brown may be called to testify about his personal knowledge, observations, investigation, and reports relating to Plaintiff's complaints that Defendants Bradley H. Cape, Zachary M. Smith, and Phillip G. Yeomans had trespassed on Plaintiff's private property in September and October 2020. Warden Brown may be called to testify about his conversations with Defendants, Steve Grende, and Marshal Roger Hawks (then of the Carbon County Sheriff's Office) relating to these three Defendants' travels and hunt on the public lands in Carbon County, Wyoming, in September and October 2020. Warden Brown may be called to testify about his instructions and guidance to these three Defendants about how to travel through, access, and hunt on public lands near Elk Mountain. Warden Brown may be called for any other matter relevant to Plaintiff's claims in this case or Defendants' defenses.

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11. Game Warden Ryan Kenneda
Wyoming Game and Fish Department
1410 Big Horn
Sheridan, WY 82801
Tel: (307) 672-2790

Warden Kenneda may be called to testify about his personal knowledge of conversations he has had with Plaintiff's representatives, including Steve Grende, over the year about public access to public lands, corner crossing, and best practices for trespass prevention on Plaintiff's private lands when he was the game warden responsible for the Elk Mountain area of Carbon County, Wyoming. Warden Kenneda may be called to testify about whether the Wyoming Game and Fish Department or he recommended that Plaintiff should install t-posts, signage, chains, or locks at the corner shared by Section 13, 14, 23, and 24, Township 20 North, Range 82 West, 6th P.M., Carbon County, Wyoming, to manage or limit trespass on Plaintiff's private property. Warden Kenneda may be called for any other matter relevant to Plaintiff's claims in this case or Defendants' defenses.

12. James "Jim" Hasskamp
c/o P. Craig Silva, Esq.
Williams Porter Day & Neville, P.C.
159 N. Wolcott Street, Suite 400
Casper, WY 82601
Tel: (307) 265-0700

Mr. Hasskamp may be called to testify about his personal knowledge of Plaintiff's installation and maintenance of t-posts, signage, chains, and locks at the corner shared by Section 13, 14, 23, and 24, Township 20 North, Range 82 West, 6th P.M., Carbon County, Wyoming, throughout 2020 and 2021. Further, Mr. Hasskamp may be called to testify about his direct observations and photographing of this corner and Plaintiff's installations around this corner on or about February 5, 2022. Mr. Hasskamp may be called for any other matter relevant to Plaintiff's claims in this case or Defendants' defenses.

13. David R. Coffey, P.E., L.S.
Coffey Engineering & Surveying, LLC
902 South 3rd Street
Laramie, Wyoming 82070
Tel: 307-742-7425
Email: dcoffey@coffey-engineering.com

Mr. Coffey may be called to testify about his opinions and findings, disclosed by Plaintiff in this case on December 15, 2022, that the onX Hunt phone application and "professional land surveying equipment" produced on-the-ground location results that differed by between 5.155 feet and 6.814 feet. *See* ECF No. 48 at 12-14. Defendants may, in other words, call Mr. Coffey, Plaintiff's designated expert

witness, to testify that the onX Hunt phone application and the Trimble R12 Base and Receiver and the Trimble TDL 450 Radio produced similar results that only differed by a horizontal difference less than seven (7) feet.

14. William R. Fehringer, P.L.S., CFEDS
Civil Engineering Professionals, Inc.
6080 Enterprise Drive
Casper, Wyoming 82609
Tel: 307-266-4346
Email: billf@cepi-casper.com

Mr. Fehringer will be called to testify as an expert witness as described in Defendants' previously served and filed expert witness disclosure. Mr. Fehringer will provide opinion testimony relating to the Public Land Survey System (PLSS), the land surveying performed on the lands situated at Township 20 North, Range 82 West, 6th P.M., Carbon County, Wyoming, and Township 20 North, Range 81 West, 6th P.M., Carbon County, Wyoming, the meaning of these land surveys, corner monuments, the specific corner monuments placed in the previously identified lands, the effects of land surveys on airspace ownership or control, and the relative accuracy of the onX Maps system.

15. Kyle Scott
23252 County Road 14
Weldona, Colorado 80653
Tel: 970-768-0553

Mr. Scott is a pilot and may be called to testify about his personal observations and experiences hunting on public lands adjacent to Plaintiff's private property in Township 20 North, Range 82 West, 6th P.M., Carbon County, Wyoming, and Township 20 North, Range 81 West, 6th P.M., Carbon County, Wyoming, on or about November 28, 2020, through November 29, 2020. Mr. Scott may be called to testify about how he and his wife, Jennifer Scott, flew into public lands in Township 20 North, Range 82 West, 6th P.M., Carbon County, Wyoming, and Township 20 North, Range 81 West, 6th P.M., Carbon County, Wyoming, using a helicopter or plane operated by Mr. Scott. Mr. Scott may be called to testify about how, while hunting and otherwise walking on public lands in this area, he and Mrs. Scott were confronted by Steve Grende and Dr. Frederic Eshelman on motorized vehicles such as a side-by-side, four-wheeler, and/or truck with accusations that the Scotts were trespassers. Mr. Scott may be called to testify about how Mr. Grende and Dr. Eshelman's actions scared off game the Scotts were pursuing and ruined their ability to use and enjoy the public lands. Mr. Scott may be called to testify about how he felt and believed that Mr. Grende's and Dr. Eshelman's actions were intended to scare, threaten, and/or intimate Mr. Scott and Mrs. Scott from continuing to visit, travel on, or hunt on public lands adjacent to Plaintiff's private lands. Mr. Scott may be called to testify about his efforts to obtain assurance that his flight into public lands was legal and acceptable, including a recording of one

of his communications with representatives from the Bureau of Land Management about the legality of flying into public lands in this area.

16. Defendants
c/o Fuller & Semerad, LLC
242 South Grant Street
Casper, Wyoming 82601

Defendants may be called to testify about any relevant matters in this case.

17. Any witnesses designated or disclosed by Plaintiff

Defendants reserve the right to call any witness designated or disclosed by Plaintiff to testify about any relevant matters in this case.

Dated: March 1, 2023.

THE FULLER & SEMERAD LAW FIRM

By: /s/Ryan A. Semerad
Ryan A. Semerad, Esq.
Wyoming State Bar No. 7-6270
242 South Grant Street
Casper, Wyoming 82601
Telephone: 307-265-3455
Facsimile: 307-265-2859
Email: semerad@thefullerlawyers.com

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*Attorneys for Defendants Bradly H.
Cape, Zachary M. Smith, Phillip G.
Yeomans, and John W. Slowensky*

CERTIFICATE OF SERVICE

I certify that on the 1st day of March, 2023, I electronically filed the foregoing instrument with the Clerk of the Court for the United States District Court for the District of Wyoming by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

/s/Ryan A. Semerad
The Fuller & Semerad Law Firm